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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,963	10/25/2001	Takao Yamaguchi	5077-000071	3899
27572	7590	02/08/2005	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			FLANAGAN, KRISTA M	
			ART UNIT	PAPER NUMBER
			2631	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/056,963	YAMAGUCHI ET AL.	
	Examiner	Art Unit	
	Krista M. Flanagan	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/25/2001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. The attempt to incorporate subject matter into this application by reference to the web sites on page 2, lines 9-10 and line 24 and page 3, line 17 are improper. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.
2. Claim 2 is objected to because of the following informalities: Lines 23-24 state, "session by allocating the available transmission band to each of TCP sessions". It is the examiners opinion that this should read, "session by allocating the available transmission band to each of **the** TCP sessions". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshimura et al. US Patent No. 6,125,397.
5. Regarding claim 1, Yoshimura discloses a transmission rate controller for controlling a data transmission rate between a transmitting terminal and a receiving terminal (See figure 3, block 107), comprising: a band estimation section (See figure 6, block 2; and column 8, lines 52-65) for estimating an available transmission band in a communication path between the

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transmitting terminal and the receiving terminal; a band management section (See figure 6, block 4 and column 9, lines 4-18) for setting an upper limit of a band to be used by each TCP session by allocating the available transmission band to each of TCP sessions between the transmitting terminal and the receiving terminal; and a transmission rate management section (See figure 6, block 5 and column 9, lines 28-43) for limiting a data transmission rate associated with each TCP session according to the preset upper limit of the band to be used (See column 3, lines 2-4).

6. Regarding claim 2, Yoshimura discloses a transmission rate control method for controlling a data transmission rate between a transmitting terminal and a receiving terminal (See figure 3, block 107), comprising the steps of: estimating an available transmission band in a communication path between the transmitting terminal and the receiving terminal (See figure 6, block 2; and column 8, lines 52-65); setting an upper limit of a band to be used by each TCP session by allocating the available transmission band to each of the TCP sessions between the transmitting terminal and the receiving terminal (See figure 6, block 4 and column 9, lines 4-18); and limiting a data transmission rate associated with each TCP session according to the preset upper limit of the band to be used (See figure 6, block 5; column 9, lines 28-43 and column 3, lines 2-4).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Kikuchi et al. US Patent No. 6,798,787 discloses a network system and communication band control method.

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- b. Tanaka et al. US Patent No. 6,504,824 discloses an apparatus and method for managing band rate.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista M. Flanagan whose telephone number is (571) 272-2203. The examiner can normally be reached on Monday - Friday, 7 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad H. Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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TESFALDET BOUCRE
PRIMARY EXAMINER

